

1 APPEARANCES: (CONT'D.)

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5 (Appearing on behalf of NTS
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6 teleconference.)

7 JOSEPH D. MURPHY

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8 Champaign, Illinois 61820

9 -and-

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(Appearing on behalf of Gallatin
13 River Communications, LLC d/b/a
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KELLY ARMSTRONG

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(Appearing on behalf of staff of
18 the Illinois Commerce Commission
via teleconference.)

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I N D E X

WITNESSES

DIRECT

CROSS

None

EXHIBITS

None.

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PROCEEDINGS

JUDGE VON QUALEN: By the authority vested in me by the Illinois Commerce Commission, I now call Docket No. 12-0116. This docket concerns the complaint filed by NTS Services Corp against Gallatin River Communications LLC doing business as CenturyLink. The complaint was filed pursuant to Section 9-250, Sections 10-101 and 108, and Sections 13-514 and 515 of the Illinois Public Utilities Act.

May I have the appearances for the record, first on behalf of the complainant?

MR. TWOMEY: On behalf of NTS, this is Christopher Twomey.

MR. McNAMARA: Judge, Edward D. McNamara, Jr. on behalf of NTS.

JUDGE VON QUALEN: Thank you.

And on behalf of the respondent?

MR. DETHLEFS: Your Honor, Tom Dethlefs on behalf of CenturyLink.

MR. MURPHY: Your Honor, Joseph D. Murphy also on behalf of CenturyLink.

JUDGE VON QUALEN: And for staff?

1 MS. ARMSTRONG: Kelly Armstrong and Michael
2 Lannon on behalf of staff.

3 JUDGE VON QUALEN: Are there any others wishing
4 to enter an appearance?

5 Let the record show no response.

6 The parties have agreed to waive the
7 Section 13-515 time limits in this case, so there is
8 no case deadline.

9 Since we last met, I received
10 complainant's testimony which was filed on June 19,
11 2012.

12 I also received respondent's testimony
13 filed September 28, 2012 and staff's testimony filed
14 November 19, 2012.

15 I received a motion filed by NTS
16 seeking an extension of time to file rebuttal
17 testimony on December 27th asking for until
18 January 7, 2013, and yesterday, January 7th, I did
19 receive NTS's rebuttal testimony.

20 I also received yesterday a motion to
21 strike a portion of NTS's direct testimony which was
22 filed by CenturyLink.

1 I have received no objections to the
2 request for an extension of time to file rebuttal
3 testimony, and it's now been filed. So that motion
4 is granted.

5 Then I believe the purpose of today's
6 hearing is for scheduling, and it seems to me that
7 the first thing on the schedule would be the
8 responses and replies on the motion to strike that
9 was filed yesterday.

10 MR. DETHLEFS: Your Honor, this is Tom
11 Dethlefs.

12 We had hoped that we would be able to
13 include any objections we had to the rebuttal
14 testimony as well in the motion, but since it wasn't
15 filed until yesterday, we did not. We have not gone
16 through it carefully enough to determine whether we
17 have a similar motion with respect to the rebuttal
18 testimony, but we would be able to do that perhaps
19 within the next ten days or so.

20 So what I would propose as far as the
21 schedule goes is set the time for NTS to respond and
22 give us a little time to raise any objection we have

1 to the rebuttal testimony if that's okay with the
2 court.

3 JUDGE VON QUALEN: Is your proposal that you
4 would go ahead and file any additional motion to
5 strike before NTS responded to the one you filed
6 yesterday?

7 MR. DETHLEFS: Yes, that would be our proposal.

8 MR. TWOMEY: That's fine with NTS.

9 JUDGE VON QUALEN: All right. Mr. Dethlefs,
10 how much time would you like for that?

11 MR. DETHLEFS: Normally I would just ask for
12 seven days, but I'm going to be traveling the rest of
13 this week, so if I could have until the end of next
14 week which would be the 18th.

15 JUDGE VON QUALEN: Does anyone have any
16 objection to that?

17 MR. TWOMEY: None from NTS.

18 MS. ARMSTRONG: None from staff.

19 JUDGE VON QUALEN: All right then. CenturyLink
20 will have until January 18, 2013 to file any
21 additional motion to strike which could address the
22 rebuttal testimony filed by NTS yesterday.

1 And would the parties like to go ahead
2 and set a schedule for responses and replies on the
3 motion or motions to strike?

4 MR. TWOMEY: NTS can reply on the 25th.

5 JUDGE VON QUALEN: And that would be if a
6 second motion to strike is filed on the 18th?

7 MR. TWOMEY: Correct.

8 JUDGE VON QUALEN: And would staff intend to
9 weigh in, and if so, how much time would staff need
10 for a response?

11 MR. LANNON: Your Honor, if we weigh in, we can
12 also file something on the 25th too.

13 JUDGE VON QUALEN: So we will set responses to
14 the motion or motions to strike for January 25, 2013.

15 And then, Mr. Dethlefs, would you like
16 an opportunity or would your client like an
17 opportunity to reply to the responses?

18 MR. DETHLEFS: Yes, if we could. I'm not sure
19 we will file a reply, but if we could have the option
20 of doing it, that would be great.

21 JUDGE VON QUALEN: How much time would you like
22 for a reply?

1 MR. DETHLEFS: If I could have a week to do
2 that. So the 1st of February?

3 JUDGE VON QUALEN: All right. And then I think
4 probably the pragmatic approach would be to give me
5 some time to rule on the motion or motions to strike
6 and then set another status at which time we would
7 prepare for the evidentiary hearing.

8 Does anybody have any objection to
9 going with that?

10 MR. DETHLEFS: No objection from CenturyLink.

11 MR. TWOMEY: None from NTS either.

12 MS. ARMSTRONG: None from staff.

13 JUDGE VON QUALEN: Well, let's set this for a
14 status hearing maybe the first week of March.

15 Would March 5th work for the parties?

16 MS. ARMSTRONG: Yes.

17 MR. DETHLEFS: That works for CenturyLink.

18 MR. MURPHY: I'll be out of town that day but I
19 don't think I'm that important.

20 JUDGE VON QUALEN: Would 9:30 a.m. work?

21 MS. ARMSTRONG: Your Honor, I have another
22 status at 10 a.m. I just wouldn't want it to run

1 over.

2 Could we do it at 11?

3 JUDGE VON QUALEN: Yes, but it's not going to
4 take more than a half hour. We're simply going to
5 set up a schedule for the evidentiary hearing. It
6 should be relatively brief.

7 MS. ARMSTRONG: Okay. So you're just going to
8 rule on the motions, and then we'll set a status.
9 You're not going to be taking comments or any type of
10 argument or anything on the motion at that time?

11 JUDGE VON QUALEN: No. I expect that the
12 argument and comments on the motion should be
13 contained within the responses and the replies.

14 MS. ARMSTRONG: Okay.

15 JUDGE VON QUALEN: I would anticipate that I
16 will have sent out a ruling in advance of the status
17 hearing, and at the status hearing, parties will be
18 ready to say if the evidentiary hearing will be the
19 next thing that we do and when would be a good date
20 for that. That's what I anticipate at the status
21 hearing.

22 MS. ARMSTRONG: Okay. Then that's fine. If

1 it's going to be brief, 9:30 works for staff.

2 JUDGE VON QUALEN: Is there anything else we
3 need to discuss this morning?

4 MR. DETHLEFS: Your Honor, CenturyLink will be
5 glad to provide a conference bridge for that status
6 call.

7 JUDGE VON QUALEN: I appreciate that. Thank
8 you.

9 All right then. If there's nothing
10 further, then the schedule we set today is that
11 CenturyLink will have until January 18 to file any
12 additional motion to strike addressing the rebuttal
13 testimony of the complainant.

14 NTS will have until January 25, 2013.
15 NTS and staff will have until January 25 to file
16 responses to the motion or motions to strike.

17 CenturyLink will have until
18 February 1, 2013 to file any reply to the responses.

19 We're continuing this matter to
20 March 5, 2013 at 9:30 a.m. Telephone participation
21 will be allowed, and thank you to CenturyLink for
22 offering to provide a link.

1 With that, the matter is continued.

2 Thank you all.

3 (Whereupon the hearing was
4 continued to March 5, 2013 at
5 9:30 a.m.)

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